



THE SECRETARY OF EDUCATION  
WASHINGTON, D.C. 20202

August 25, 2005

Honorable Thomas M. Jackson, Jr.  
President  
Virginia Board of Education  
227 North Main Street  
Hillsville, Virginia 24343

Dear President Jackson:

I am writing in response to Virginia's request for a flexibility agreement on behalf of four school districts to provide supplemental educational services under Title I of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), in lieu of public school choice, to students attending Title I schools in the first year of school improvement.

Supplemental educational services (SES) are an important component of NCLB, giving low-income families real options to obtain free tutoring and other academic enrichment services for their children. This extra help for students who attend schools in need of improvement is a key element of school improvement efforts. We have learned valuable lessons about SES, a new initiative under NCLB, in these first few years of implementation. Creating and implementing a successful SES program takes coordination and cooperation by States, school districts, providers, and parents.

Unfortunately, not enough eligible students are receiving SES. According to several studies, only 10 to 20 percent of eligible students across the country participated in SES during the 2003-04 school year. Therefore, in order to increase the number of students receiving services, as well as the quality of services provided to students, the U.S. Department of Education is beginning several SES pilot programs in a select number of school districts across the country. Pilot programs will fulfill two key priorities: they will ensure that more students are receiving SES, and they will ensure better information on how programs are improving the academic achievement of students receiving services. I hope to gain valuable information about SES from these pilot programs -- information that can be shared with other States and districts to help them improve the quality of these services.

Virginia has requested that four school divisions (districts) within the Commonwealth be allowed to offer SES to eligible students in Title I schools in the first year of school improvement under NCLB in lieu of public school choice. These four divisions would then offer SES and public school choice to eligible students enrolled in any school that moves to the second year of school improvement. The four divisions are Alexandria City, Henry County, Newport News City, and Stafford County.

The Department has reviewed Virginia's request for flexibility and its efforts to meet the guiding principles of NCLB that I outlined on April 7 of this year at Mount Vernon. Virginia is meeting

the core principles by improving student achievement, implementing the accountability provisions as required by NCLB, providing accessible information and options for parents, and improving the quality of teachers.

I am approving Virginia's request for a flexibility agreement under section 9401 of the ESEA for the 2005-06 school year for the four requested divisions as an SES pilot program of the Department. This agreement permits the four pilot divisions to provide SES to eligible students in Title I schools in the first year of school improvement in lieu of choice, thereby reversing the statutory order specified in sections 1116(b)(1)(E) and 1116(b)(5)(B) of Title I. Approval is conditioned on Virginia's fulfilling the conditions detailed in the enclosed Attachment and summarized here:

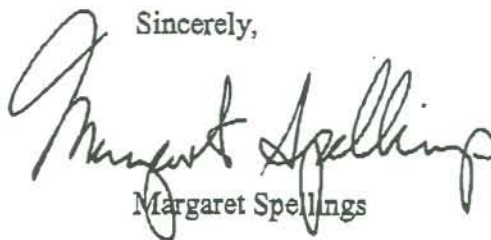
- More students participate in SES and public school choice
- Virginia must provide information on the academic achievement of students receiving SES
- Virginia must ensure parent access to SES providers
- Virginia must participate in a data exchange project with the Department

In addition, as required by section 9401(b)(3)(B) of the ESEA, within 30 days of the date of this letter, each pilot division must provide notice and information to the public about its participation in the pilot in the manner in which it customarily provides similar notice to the public. Each division must also submit a report under section 9401(e)(1) of the ESEA to the Virginia Department of Education (VDE) at the end of the 2005-06 school year that describes the division's provision of SES in Title I schools in the first year of school improvement; describes how those schools continued to provide Title I services to eligible students; and evaluates the progress of the division and schools in improving the quality of instruction or the academic achievement of students. VDE must then submit a report to the Department based on the pilot divisions' reports.

This flexibility agreement applies to the provision of SES in Title I schools in the four pilot divisions during the 2005-06 school year.

Supplemental educational services are an important component of No Child Left Behind, and we look forward to working with you to ensure that students are accessing services and succeeding in the classroom.

Sincerely,



Margaret Spellings

cc: Honorable Mark Warner  
Dr. Jo Lynne DeMary

Enclosure



### Attachment: Conditions of Flexibility Agreement

- Virginia must ensure that more students participate in SES and choice by demonstrating that the combined participation in choice and SES in the pilot divisions increases substantially in 2005-06 over the 2004-05 levels.
- Virginia must provide the Department with information on the academic achievement of students receiving SES by school within the four pilot divisions within one month of the date that each of the four divisions receives its 2005-06 assessment results.
- Virginia must provide parents in pilot divisions access to a variety of SES providers, as demonstrated by the following:
  1. Maintaining a comprehensive list of SES providers (e.g. nonprofit, for-profit, faith and community-based, online);
  2. Ensuring that at least two providers from which parents may choose are available in each pilot division;
  3. Providing information to parents in pilot divisions on school performance and student eligibility for, and enrollment in, choice and SES that is clear, accurate, and easily accessible. Virginia may want to develop model parental notification letters and standard forms for enrolling students in choice and SES; and
  4. Ensuring that the pilot divisions provide fair and equitable treatment of non-district providers by giving providers access to school facilities at a reasonable price and dividing space among providers in a fair manner.
- Virginia must require pilot divisions to notify parents about SES within the first few weeks of the school year and provide SES shortly thereafter.
- Virginia must require pilot divisions to offer continuous enrollment in SES or multiple SES enrollment periods throughout the 2005-06 school year until each pilot division spends the requisite 20 percent or all students eligible for SES and choice are served.
- Virginia must submit complete and accurate data to the U.S. Department of Education via the Educational Data Exchange Network (EDEN) for the 2003-04 and 2004-05 school years by the end of October 2005. Subsequent submissions for the 2005-06 school year must be provided during the EDEN transmission windows and completed by September 30, 2006, with the exception of the "Close Out" data which should be submitted by November 1, 2006. The exact details and schedule of the EDEN data submissions from Virginia will be outlined in a Data Transfer Agreement.